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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 24 March 1998, at 10 a.m.

Chairman:	Mr. SELEBI	(South Africa)
later:	Mr. GALLEGOS CHIRIBOGA (Vice-Chairman)	(Ecuador)
later:	Mr. SELEBI (Chairman)	(South Africa)

CONTENTS

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (continued)

STATEMENT BY THE DIRECTOR OF HUMAN RIGHTS OF THE COUNCIL OF EUROPE

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CONTENTS (continued)

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT;

(b) THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

ORGANIZATION OF THE WORK OF THE SESSION (continued)

The meeting was called to order at 10 a.m.

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 13) (continued) (E/CN.4/1998/25, 82 and Corr.1, 83 and 84; E/CN.4/1998/NGO/62; E/1997/72)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 14) (continued) (E/CN.4/1998/85 and Corr.1; E/CN.4/1997/74; A/51/482; A/52/507)

1. Mr. PEREZ del CASTILLO (Uruguay) said that the question of capital punishment was of great importance to his country whose opposition to the death penalty and endeavours to eliminate it were well known. In addition to moral and philosophical considerations, that position was based on the irreversibility of the death sentence, the possibility of human error resulting in the execution of an innocent person and the lack of evidence that such a penalty actually deterred serious crime.

2. The report of the Secretary-General (E/CN.4/1998/82) indicated that progress had been made in recent years towards the total abolition of the death penalty in law and in the imposition of moratoria. At the Commission's current session, many delegations had made commitments at the highest level to work towards the abolition of the death penalty. His own delegation wished to align itself with those which, in the framework of the fiftieth anniversary of the Universal Declaration of Human Rights, were promoting the process leading towards the elimination of capital punishment and would once again be a sponsor of the draft resolution on the subject.

3. Mr. REYES RODRIGUEZ (Cuba) said that the work of the treaty bodies established to monitor observance of the commitments by the States parties to international human rights instruments had become one of the mainstays of United Nations machinery in that area, but the effectiveness and credibility of the system would depend on the way they coped with the challenges ahead. Such bodies were not courts of law and they must strictly respect the legal mandates conferred on them without attempting to expand those mandates through reinterpretation of the treaty. Their approach must be cooperative rather than punitive.

4. Equitable geographical membership of the treaty bodies must be ensured by clear formulas that took account of the diverse political, economic, judicial and social systems involved. The system of regional quotas established for the Committee on Economic, Social and Cultural Rights could serve as a model.

5. The growing tendency to impose a single working language in informal sessions and working groups and to accept information submitted in one language only was inadmissible. Universality could be accomplished only in terms of respect for diversity. The basic source of information for the treaty bodies was the reports submitted by States parties and clear standards of admissibility must be established for information from other sources.

6. His delegation rejected all attempts to link and overlap the functions of the treaty bodies and the Commission's special procedures. Moreover, the

treaty bodies had no right to determine the "illegitimacy" of reservations which had not been previously prohibited in the text of the treaty itself.

7. States parties must comply with their reporting obligations but initiatives to establish punitive mechanisms for States failing to do so would merely place additional strain on the system. The methodology of preparing reports should be improved and common guidelines established for the various bodies but his delegation was opposed to the idea of submitting a consolidated report. Diversion of the scant resources available for advisory services to promoting ratifications would also be a mistake.

8. While the United Nations Secretariat played a key role in providing technical support to the work of the treaty bodies, it must refrain from becoming involved in their substantive work. In that connection, regional training courses for national instructors were preferable to supplying a single expert and should be maintained. It would be inappropriate for the treaty bodies to become involved in areas within the mandates of the Commission's special procedures. Proposals to simplify the procedure for amending the treaties along the lines of the procedure used to increase the membership of the Committee on the Rights of the Child were worthy of consideration.

9. The periodic meetings of the chairpersons of the treaty bodies were to be encouraged, but there was a tendency for personal viewpoints to be expressed rather than the positions of the treaty bodies represented and, more seriously, the agreements, recommendations and opinions expressed in those meetings were not subsequently considered by the individual treaty bodies.

10. While it was necessary to grant the treaty bodies the resources they needed to carry out their work, increased funding alone would not solve all their problems. Many of the international human rights treaties had reached almost universal ratification and the reporting burden placed on the States parties, particularly the developing ones, was excessive. The system must be reformed and simplified.

11. Mr. BHANDARE (India) said that the human rights instruments indicated the collective view of the international community on what constituted universal human rights standards. Since they were adopted voluntarily, they reflected the political commitment of each ratifying State and acted as a benchmark against which its domestic legislation could be measured. The treaty bodies were among the most effective human rights mechanisms and commanded a high degree of credibility because of their independence, objectivity and expertise.

12. The treaty-body system was under strain, however, as a result of the rapid increase in the number of States parties to the treaties. Two recent instances of countries seeking to withdraw from their commitments did not augur well and elections to the bodies were showing trends which ran counter to the principle of equitable geographical representation.

13. The independent expert appointed by the Secretary-General had provided a thorough analysis of the problems facing the system and the possible solutions in his report to the Commission (E/CN.4/1997/74). His delegation agreed with

the expert that a lack of understanding of the implication, of the instruments, a lack of trained personnel, confusion between treaty-body procedures and special procedures, low budget priority and a concern over the burden of reporting obligations were among the principal obstacles impeding universal ratification. It was disappointing, therefore, that the report of the Secretary-General did not contain his views on the legal implications of the recommendations by the independent expert, particularly with reference to simplification of the procedures for amendment.

14. The reform process should be addressed simultaneously on three different tracks. First of all, the matter should be at the top of the agenda of both the Commission and the General Assembly, since much more study and discussion of the various issues raised by the independent expert were required. Secondly, States parties to the treaties should examine whether the meetings of States parties, which were currently convened primarily for the purpose of elections, could be given a substantive content. Finally, the treaty bodies themselves should continue to examine ways in which reporting could be simplified and States could be encouraged to submit reports rather than deterred from doing so.

15. Mr. CIECHANSKI (Poland) said that the current United Nations human rights edifice was built on the two basic Covenants adopted in 1966. The four later conventions partly repeated and partly developed the norms contained in the Covenants. Such incremental growth of the human rights regime had resulted in many redundancies. The inconsistencies in the current situation could be exemplified by the Committee on Economic, Social and Cultural Rights, which was currently three years behind schedule in reviewing his own country's periodic report but was nevertheless considering the adoption of a new optional protocol which would add yet more procedural obligations to an already overloaded body. While his Government did not oppose that optional protocol in principle, it thought that the backlog of pending reports had first to be eliminated.

16. Civil and political rights and economic, social and cultural rights were not equally implementable; they had been placed in two different international instruments for a purpose and the method of supervising compliance appropriate for one type of human right might be inappropriate for another. Because there were no clear standards for the fulfilment of economic, social and cultural rights, government performance in that area could always be questioned.

17. The reporting obligations of States parties must be streamlined rather than expanded. As things stood, each State had to prepare a periodic report for each of the treaties to which it was party. The treaties overlapped in many ways and so did the reports. He suggested that, after filing detailed initial reports, States should be asked to respond to the particular concerns of the treaty body regarding implementation of certain provisions of the treaties rather than to submit repetitive comprehensive periodic reports. In that way, the treaty bodies could reduce their workload and the States parties would save the many hours wasted on the preparation of such reports.

18. The Commission might also wish to study the possibility of consolidating the existing treaty bodies. The size of such a consolidated treaty body would be determined by the nature of its tasks and, if that reform was combined with

the response-to-concerns reporting method, the size could surely be kept within manageable limits. Such a consolidated treaty body, which could work through panels of experts rather than in plenary, might be able to consider consolidated reports from States on the implementation of all the treaties to which they were parties.

19. Mr. WANG Min (China) said that the international human rights instruments laid down the basic framework for the promotion and protection of human rights and provided the legal basis for international cooperation in that field. The reporting mechanisms for those instruments were, however, facing a number of problems including multiple reporting, overdue reports and delays in the consideration of the reports.

20. In the first place, coordination between the treaty bodies and other United Nations organs must be strengthened in order to avoid duplication. Secondly, the treaty bodies should take into consideration the difficulties that developing countries had in producing a conscientious report and should provide the necessary assistance. Thirdly, when reviewing the reports, the treaty bodies should take full account of the level of economic development and the religious and cultural background of the countries concerned.

21. His Government, which supported the efforts of the international community to promote universal respect for and protection of human rights and fundamental freedoms, had actively participated in the drafting of the international human rights instruments and had already acceded to 17 of them. In addition, it had signed the International Covenant on Economic, Social and Cultural Rights in October 1997 and intended to sign the International Covenant on Civil and Political Rights in the near future.

22. After it had resumed sovereignty over Hong Kong on 1 July 1997 and established the Hong Kong Special Administrative Region (SAR), his Government had made arrangements to provide information on implementation of the relevant human rights conventions in the SAR. The provisions of the International Covenants on Human Rights as applied to Hong Kong would remain in force and would be implemented through the laws of the SAR. His Government would submit information on their implementation in conformity with the relevant provisions of the Covenants.

23. Mr. STROHAL (Austria) said that the starting point for consideration of the treaty regime was the crucial role of treaties and their supervisory organs in ensuring an effective human rights system at the national level, while their universal ratification was also essential for the global dimension of human rights protection. There had been constant improvements in the treaty regime in recent years, especially with regard to the working methods of the treaty bodies. His delegation welcomed the practice and results of the meetings of the chairpersons of treaty bodies and the final report by the independent expert (E/CN.4/1997/74), which together provided an excellent basis for improving the system.

24. The main obligations of States in that regard were threefold: to ratify the treaty, to implement it and to report on its implementation. The number of ratifications was increasing rapidly, but there was some anxiety about reservations that were contrary to the object and purpose of the treaty

concerned. Ratification was not an end in itself but a sign of commitment to effective implementation of the treaty at home. The current year - Human Rights Year - provided an occasion for a thorough review of implementation at the national level. The most serious difficulties persisted in the area of reporting, however, and there was general agreement that the current system was unsustainable for all concerned: the treaty bodies themselves, the United Nations Secretariat and the Governments.

25. There was an urgent need for reform of the system. Reporting requirements could be consolidated and a comprehensive first report provided, followed by short and focused periodic reports based on targeted questions by the treaty bodies concerned. A prerequisite for improving the working methods of the treaty bodies was the quality and independence of the experts who served as their members. The guidelines of the Human Rights Committee in that regard were welcome. Geographical representation could be improved, and the issue of honoraria should be addressed seriously and coherently.

26. The treaty bodies should further strengthen the rapporteur system, provide written questions to Governments well in advance, and ensure strict time management during their sessions. Conclusions and recommendations should be more focused and precise. Follow-up was a crucial element of the whole regime and it must be borne in mind that its objective was the improvement of national implementation. In that connection, the treaty bodies might consider strengthening their regional outreach by meeting outside Geneva and New York.

27. There was a need to improve the processing of individual complaints, especially as work was under way on further additional protocols. The treaty bodies should study how the regional systems in America and Europe dealt with the increasing numbers of complaints. The complaints themselves should be processed more rapidly and fuller reasons given for the decisions reached.

28. His Government welcomed the attention paid by the chairpersons of the treaty bodies to the need to improve the gender perspective and supported the proposal to organize another seminar for the members of treaty bodies on how to integrate the gender perspective more effectively into their work. It appreciated the work of the Office of the High Commissioner for Human Rights, and considered the database and Website to be very useful, but was aware of the serious and increasing difficulties it encountered in terms of scarce resources and the growing number of reports and communications. Better integration of the Committee on the Elimination of Discrimination against Women was needed, however, as well as of the information coming from the agencies.

29. Mr. PLORUTTI (Argentina) said that, despite the large number of ratifications of and accessions to the International Covenants on Human Rights, greater efforts should be made to encourage States to become parties to those instruments. In connection with the report of the Secretary-General on the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights (E/CN.4/1998/84), he recalled the discussions in the relevant Committee and the decision not to include the procedure of presentation of complaints between States. He welcomed the express recognition in the draft of the Committee's right to propose provisional measures, to seek additional information on its own initiative and to visit

the State against which a complaint had been made, as well as its authority to make specific recommendations for remedial measures and to follow up on their implementation.

30. Argentina had accorded 11 human rights instruments - some universal and some regional - constitutional status, and did its best to comply with their obligations. In 1997, it had submitted its periodic reports to the various treaty bodies on time. The Committee Against Torture had urged his Government to comply with the provisions of article 14 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, as a result, it had adopted a national policy of reparations for persons who had been victims of torture during the military regime in power between 1976 and 1983. Argentina recognized the competence of the Inter-American Court of Human Rights and had amended its domestic legislation in accordance with the recommendations of the Inter-American Commission on Human Rights.

31. Mr. PETRACHKOV (Russian Federation) said that, while he endorsed the objective of achieving universal ratification of the international human rights treaties, their ratification should not be a mere formality. As the corpus of human rights became more extensive and complex it became more and more difficult to reach agreement regarding their substance. It seemed, in fact, that the less universal human rights became the more human needs were incorporated in them.

32. Russia shared the growing desire of the international community for the universal abolition of the death penalty, and had taken a number of specific steps in that direction in recent years. In May 1996, there had been a presidential decree on its phasing out, in connection with the entry of the Russian Federation into the Council of Europe, and there had been no case of the death penalty being carried out in the Russian Federation since August 1996. The State Duma was currently considering a draft law on a moratorium on its application.

33. The independent expert's final report on enhancing the long-term effectiveness of the United Nations human rights treaty system (E/CN.4/1997/74) was a good foundation for further work, but it had to be emphasized that the basis of the treaty bodies' activities was strict compliance with the provisions of the corresponding treaties, and especially those which legally determined their mandates. It was unacceptable that their sphere of competence should be extended by means of the rules of procedure adopted by themselves or that individual treaty functions, especially those relating to the consideration of reports, should be transferred to the Secretariat.

34. Detailed work needed to be done on the problem of how the treaty bodies were to examine the situation in a State where no report had been submitted by the State party. His delegation attached great importance to maintaining equality of treatment of all the official United Nations languages in the work of the treaty bodies, and it was necessary therefore to ensure that each treaty body was in receipt of adequate resources.

35. Increasing attention was being given to improving the effectiveness of coordination between the treaty bodies and the United Nations agencies and,

while his delegation agreed that it was useful to continue the regular meetings of the chairpersons of the treaty bodies, it was unacceptable that those meetings should adopt recommendations on issues that did not come within the competence of the treaty bodies, especially the question as to what persons States might or might not nominate or elect to serve on the treaty bodies. That was the sovereign right of the States themselves.

36. Mr. SIMAS MAGALHAES (Brazil) said it was regrettable that the goal of universal ratification of human rights core instruments was still far from being attained, and it was also important to emphasize that ratifications should not be accompanied by reservations impairing the effective implementation of the instruments.

37. Despite the difficulties arising from duplication of effort and overlapping obligations, which were the root causes of the large number of long-overdue reports, Brazil had made every effort to comply with the obligations it had undertaken by ratifying international human rights treaties. The reports it had submitted in the past had produced a constructive and fruitful exchange of views and it was currently preparing its initial reports concerning implementation of the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

38. There was a need for comprehensive reform of the existing system for the presentation and consideration of reports. The recommendations made by the independent expert in his final report (E/CN.4/1997/74) merited careful study by all Member States and, given the importance of the issues raised and the relatively small number of reactions noted in the report of the Secretary-General (E/CN.4/1998/85), the topic should be retained on the Commission's agenda for its next session and Governments should be requested to provide in-depth comments thereon.

39. Turning to the report itself, he said that his Government did not favour a reduction of the materials and relevant documents available in all official languages, and felt that the absence of translation and interpretation might prevent persons involved in implementing human rights at the domestic level from participating actively in the presentation of States parties' reports before the treaty bodies.

40. There should, however, be a rationalization of the monitoring of human rights and the submission of reports: States might be allowed to consolidate their information in just one or two periodic reports to be examined by each of the various treaty bodies. A consolidated report would save time and resources at the national level as well as at that of the treaty bodies themselves. He also welcomed the independent expert's suggestion regarding the formulation of reporting guidelines tailored to each State's individual situation as a way of eliminating the need to produce reports covering a vast array of issues, many of which were of little relevance to the country concerned.

41. Mr. Joong Keun KIM (Republic of Korea) said that although the universal ratification of the International Covenants on Human Rights was important,

full implementation by the States parties of their treaty obligations was at least equally so. Unfortunately, there were increasing delays not only in the submission of reports by the States parties but also in their consideration by the relevant treaty bodies. The final report of the independent expert on enhancing the long-term effectiveness of the system (E/CN.4/1997/74) contained a number of valuable recommendations, and it was to be hoped that the Commission would work to realize those recommendations and proposals.

42. His delegation was in favour of integrating the various periodic reports into one, following a single five-year reporting cycle, but if that "consolidated report" proposal was not regarded as viable, it suggested that the two-year and five-year periodic reports might be replaced by a five-year period for each of the reports. The preparation of reports could also be modified: a single coordinating body such as the Office of the High Commissioner for Human Rights could prepare for each State party a set of questions tailored to its particular situation. If that were not feasible, a fixed form could be prepared with guidelines for the preparation of a consolidated report: the form could include data verifying the degree of implementation of each instrument, practices and improvements, relevant legislation, implementation of recommendations made following previous reports, and other materials the State party considered it necessary to supply.

43. The review mechanism could be streamlined to reduce the time between the submission of a report and its consideration, which currently could be two years or more. The plan to reduce the number of treaty bodies would be difficult to achieve without the support of the States parties.

44. Mr. CONROY (Observer for Australia), speaking also on behalf of Canada and New Zealand, said that achieving the universal ratification of core human rights treaties would be the best possible foundation for international endeavours to promote respect for human rights. The fiftieth anniversary of the Universal Declaration should also be a time to strengthen further the human rights programme and to integrate human rights into the work of all United Nations bodies.

45. The treaty-body system was the cornerstone of the United Nations efforts to promote and protect human rights, and the influence of the treaty bodies had extended beyond their treaty-monitoring functions. Their work had contributed to the elaboration of human rights law through their general comments and views on communications, the identification of areas where States would benefit from technical assistance, and the furtherance and reinforcement of the work of other Charter-based organs. The system was currently facing serious difficulties which had to be resolved and, in that regard, the recommendations contained in the final report of the independent expert (E/CN.4/1997/74) merited careful consideration.

46. One recommendation that could be of significant assistance in reducing the reporting burden on States parties as well as on the treaty bodies themselves was that periodic reports could be shorter, more analytical and focused on a limited range of issues. The idea was that, after submission and consideration of an initial comprehensive report, subsequent reports would focus on a limited range of issues identified in advance by the relevant

treaty body. The treaty body could identify the issues through its concluding observations and comments on an earlier report, or it could seek information from a variety of sources on the situation in a particular State party and then submit questions to the State party sufficiently in advance to provide the basis for the drafting of its report.

47. The expert also recommended that reports be based upon dialogue with and more targeted questioning by the treaty body. The Governments he represented were currently giving active consideration to following up on those recommendations.

48. The burden of reporting was particularly daunting for smaller States and he noted with interest the recommendation made at the 8th meeting of the chairpersons of the treaty bodies that the Office of the High Commissioner for Human Rights should provide special assistance to developing countries with populations of less than 1 million in preparing for accession and in preparing their initial reports. The Governments he represented looked forward to positive consideration being given to that recommendation by the High Commissioner.

49. They also supported the independent expert's call for improved coordination between the treaty bodies and other agencies, bodies and mechanisms of the United Nations system. Harmonizing the timing for submission of reports under the various treaties would help to improve coordination, and the treaty bodies could better complement and build upon each other's work. The detailed analytical study requested of the Secretary-General would assist the treaty bodies and States parties to develop the complementary character of the core treaties and deal more effectively with treaty overlap in the preparation and consideration of periodic reports.

50. The Governments he represented welcomed the growing interest in improving the effectiveness of the treaty bodies at the academic level. They strongly supported the consideration by the chairpersons of the treaty bodies of measures for improvement and their adoption of valuable recommendations on focused reporting, integration of the gender perspective and strengthening the impact of the concluding observations.

51. They were also encouraged by the interest and efforts of the individual committees themselves in considering how to improve the effectiveness of their own reporting requirements, working methods and procedures. The committees should continue those efforts so as to allow for more efficient consideration of communications and to clarify the role of the Secretariat in relation to procedural matters. The three Governments also supported the Secretariat's continuing work on improving treaty implementation.

52. Despite the very large increase in the number of States parties and communications, the resources available to the treaty bodies had remained static for many years. Additional resources were essential if the system was to function effectively. The Governments he represented welcomed the efforts of the Secretary-General and the High Commissioner to strengthen the capacity of the human rights system to fulfil its mandate and hoped that the restructuring and consolidation exercise currently under way in the United Nations would result in significant improvements in the efficiency and

effectiveness of the human rights programme and that some of the dividends of those improvements would be channelled to the treaty bodies. The High Commissioner should ensure that servicing the treaty bodies was treated as a priority and that staff members with appropriate expertise were assigned to that area, not least in regard to communications.

53. Mr. VIGNY (Observer for Switzerland) said that his country had ratified additional protocol No. 6 to the European Convention on Human Rights in 1987, had abolished the death penalty for all crimes in 1992, and had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights in 1994. Switzerland thus belonged to the "totally abolitionist" countries listed in the report of the Secretary-General submitted pursuant to Commission resolution 1997/12 (E/CN.4/1998/82). He appealed to those countries that had signed one or other of those abolitionist instruments to proceed to its ratification without delay and noted with regret that four de facto abolitionist countries had resumed executions in 1996 or 1997.

54. A consensus against the death penalty for persons under 18 years of age was emerging worldwide. Nevertheless, application of the death penalty to minors was allowed under the laws of a number of countries, four of which - Iran, Iraq, Yemen and the United States of America - were thus in breach of their obligations under article 6, paragraph 5, of the International Covenant on Civil and Political Rights.

55. It had never been proved that the death penalty was a more effective deterrent than other penalties, such as life imprisonment, or that abolition of the death penalty led to a rise in the crime rate. For those reasons, and because of the risk of executing an innocent person, his delegation appealed to all States that still maintained the death penalty on their statute books to abolish it or introduce a moratorium on executions.

56. Mr. MUN (Observer for Singapore) said that the issue of the death penalty was often raised in terms of the convicted person's right to life. That, however, had to be weighed against the right to life and to security of person of the victims. Governments had a responsibility to protect innocent victims and experience in his own country had shown that the retention of the death penalty had preserved and safeguarded the interests of society and contributed towards the maintenance of law and order.

57. His Government respected the right of societies to choose not to use the death penalty or to abolish it, but they should not impose their values and system of justice on others. The decision had to be taken by the Government and people of each country with due regard for their respective circumstances and the interests of society as a whole. States which felt obliged to impose the death penalty must, of course, do so in accordance with international legal requirements.

58. The yearly updates of the Secretary-General's quinquennial report on capital punishment were unnecessary and inconsistent with the efforts to streamline the Commission's work. His delegation therefore agreed with the view expressed by Cuba (E/CN.4/1998/82, p. 12, para. 5) that the issue should continue to be considered within the framework of the Commission on Crime Prevention and Criminal Justice.

59. It also associated itself with the view of the United Kingdom (p. 31, para. 4) that the question of whether capital punishment should be abolished was solely the responsibility of individual Governments and parliaments, taking into account their international commitments. The question of the death penalty clearly did not command an international consensus; views upon it were divided, and each view deserved equal respect.

60. Mr. CRECU (Observer for Romania) said that, as a party to virtually all the international human rights instruments, his country was naturally in favour of their universal ratification, without any reservations that were inconsistent with the purpose of the particular instrument. Efforts at the international level to rally States around the universal values and principles of human rights should be accompanied by national measures to adapt legislative and institutional structures or to create new ones. The interesting ideas and proposals to improve the effective functioning of bodies established pursuant to United Nations human rights instruments deserved careful attention and should lead to the adoption of effective solutions.

61. Mr. NAZARIAN (Observer for Armenia) said that, since its accession to independence, his country had become a party to a large number of international human rights instruments, in accordance with its view that civil and political rights, on the one hand, and economic, social and cultural rights, on the other were equally important and that it was both inappropriate and ineffective to claim priority for one category of rights over the other.

62. The Universal Declaration had not been the only major human rights instrument adopted by the United Nations 50 years previously; 1948 had also been the year of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide. Genocide, denial of the right to survive, was at the very heart of violations of human rights and prevention of the crime of genocide was a matter of utmost priority. Accordingly, his delegation intended to table a draft resolution on the Convention on the occasion of the fiftieth anniversary under agenda item 13. Adoption of that draft resolution would remind the international community of the importance of reconfirming its commitment to combating genocide, which continued to manifest itself with alarming frequency in various parts of the world.

63. Mr. DLAMINI (Observer for Swaziland) said that the death penalty had been on his country's statute-book since independence and, although it had not been used for over 20 years, there was no immediate intention to remove it. Every sovereign State had the right to choose its laws. It was most surprising that impassioned calls for abolition came from precisely those nations that had introduced the death penalty to Africa in the first place and had practised it unrestrainedly against the African under their rule. The escalating crime rate in Africa and other parts of the developing world made it necessary to use the death penalty for the purpose of protecting innocent lives. People who came to Africa in order to rob and kill should be in no doubt about the punishment that awaited them.

64. Mr. Gallegos Chiriboga (Ecuador), Vice-Chairman, took the Chair.

65. Ms. BROWN (Human Rights Advocates) said that her organization supported the call for a moratorium on executions and urged all countries to abolish the

death penalty for minors. Of the six countries that had executed juvenile offenders since 1990, the United States of America was the worst violator of international standards. It had executed 9 juvenile offenders since 1985 and currently had 67 juvenile offenders on death row. The minimum age for eligibility for the death penalty was below 18 years in 24 States and there were reports of prosecutors using the threat of the death penalty to coerce minors into pleading guilty instead of going to trial. The United States' numerous reservations to the International Covenant on Civil and Political Rights were all to be deplored and the reservation to article 6 should be considered null and void. It should be noted, in that connection, that the United States was one of only two countries that had not yet ratified the Convention on the Rights of the Child.

66. Iran, Saudi Arabia, Nigeria and Pakistan had provided little specific information to the Special Rapporteur on extrajudicial, summary and arbitrary executions and the number of juveniles on death row in those countries was unknown. The Child Offenders Bill, currently before the Parliament of Pakistan, provided that the minimum age for death penalty eligibility should be 16. She urged Pakistan to comply with international standards and set the minimum age at 18. At least one juvenile offender had been executed in Iran in 1990 and three in 1992. Records also indicated that at least one juvenile offender had been executed in Saudi Arabia in 1992 and one in Nigeria in 1997.

67. The violations committed by all the five countries she had mentioned called for extreme measures on the part of the international community and her organization recommended the following action: the Commission should request the five countries in question to submit detailed annual progress reports on the subject as from 1999; it should urge the United States to withdraw its reservation to article 6 of the International Covenant on Civil and Political Rights and to ratify the Convention on the Rights of the Child; and should request all countries with federal systems to provide detailed reports on steps they had taken to inform and educate each of their units about the requirements of the Covenant and, lastly, it should invite countries to consider measures such as refusing to hold meetings, conventions and conferences in countries which retained the death penalty and refraining from investing in companies with their headquarters in such countries.

68. Mr. PUNJABI (Himalayan Research and Cultural Foundation) said that, while it was heartening to learn that the number of signatories of the International Covenants on Human Rights had risen, the cause of human rights would be advanced only if the signatories observed the provisions of the Covenants. In far too many cases, States disregarded their commitments and, if pressure were not brought to bear, the mechanisms of repression continued unabated.

69. Pakistan was a case in point: it had failed to sign the Covenants, thus giving itself licence to violate human rights with impunity. It suppressed Sindhis for demanding self-determination and butchered Mohajirs for demanding the restoration of their fundamental human rights. The international community should exert pressure on Pakistan to sign the Covenants and should monitor its observance of human rights. Only thus could an end be put to the

feudalism, police brutality, extrajudicial killings, religious persecution, suppression of women and legalized State terrorism which had brutalized and marginalized that country.

70. Mr. COLSON (World Jewish Congress) said that the Committee on the Elimination of Racial Discrimination was supposed to consist of "18 experts of high moral standing and acknowledged impartiality". However, the Chairman of that Committee had recently defended an author, Roger Garaudy, who had written a book denying or doubting the use of gas chambers to exterminate Jews and others, asserting that the number of murdered Jews had been grossly overestimated and charging that Jews had lied about the Holocaust for their financial gain. Courts in both Switzerland and France had found the book an incitement to racial discrimination.

71. Yet, on 3 March 1998, the Chairman of the Committee, speaking in his "personal capacity", had said that he was deeply astonished that Switzerland had prosecuted Garaudy's bookseller, since Garaudy was merely expressing an opinion. Another - European - member of the Committee had disagreed with the Chairman, while at the same time rejecting the link the Chairman had made between Garaudy and Salman Rushdie.

72. Clarification had been sought from the Chairman of the Committee, who had expressed respect for Garaudy, noted Garaudy's popularity and, in reply to the speaker's concern at the racial incitement and hatred contained in Garaudy's book, said "You only say these things because you are a Jew". The Chairman had then given an untruthful account of the meeting (CERD/C/SR.1268 and HR/CERD/98/25).

73. It was frightening to have to reiterate within the precincts of the United Nations the fact that the Holocaust had happened and that six million Jews and hundreds of thousands of non-Jews had been deliberately exterminated. The United Nations had been born out of that horror and was designed to be a beacon for all who suffered prejudice, hatred and discrimination. The behaviour of the Chairman of the Committee on the Elimination of Racial Discrimination had impaired the integrity of the entire treaty-body process.

74. Mr. NARANG (European Union of Public Relations) said that the most precious human right was the right to life. All other human rights were secondary. In that context he drew attention to the Lashkar e Taiba, the armed wing of the Markaz ul Dawaa ul Arshad, an institution in Pakistan with the ostensible aim of imparting religious scholarship. Unlike other religions, the Markaz taught that only the Lashkars were worthy of living and that those persons with other religious beliefs were vermin to be exterminated.

75. In November 1997, before an international congregation brought together in Pakistan with the full knowledge of the Government of that country, the leader of the Lashkar had stated that the Koran declared Hindus and Jews to be the enemies of Islam and that the Lashkar was committed to a holy war against them. On 25 January 1998, 23 Kashmiri Hindus had been massacred by the Lashkar.

76. Mr. NAQVI (World Muslim Congress) said that, although India had ratified the International Covenants on Human Rights, it had yet to implement many of their provisions, having made declarations and entered reservations concerning a number of their articles. With regard to article 1, common to both Covenants, it had declared that the word "self-determination" applied only to peoples under foreign domination and not to sovereign independent States or to a section of a people or nation. That declaration did not, however, absolve India from its obligations under the article in respect of the people of Jammu and Kashmir who were, precisely, under foreign domination. When India had presented its third periodic report to the Human Rights Committee in 1997, the Committee had been unable to question its representatives regarding violations of articles on which India had made declarations so the denial by India of the right to self-determination of the Kashmiris, had gone unquestioned.

77. Universal ratification of human rights instruments was clearly by no means the whole answer. Some Governments, perversely, ratified instruments as window-dressing while indulging in gross and systematic human rights violations. Universal ratification must thus be accompanied by a campaign to ensure the withdrawal of reservations and declarations.

78. Mr. KANE (African Commission of Health and Human Rights Promoters) said that, although 137 States had ratified or acceded to the International Covenant on Economic, Social and Cultural Rights and 140 the International Covenant on Civil and Political Rights, most of them did not respect or implement the rights concerned. For example, of the 30 African States which had had the death penalty on their statute books only 8 had since abolished it. Signatories of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the African Charter on Human and Peoples' Rights continued to trample on the fundamental rights of their citizens. In Mauritania, for example, the recent conviction of anti-slavery activists clearly illustrated the opposition to all progress towards human emancipation.

79. The Universal Declaration should not be trifled with. States should be urged to ratify the international instruments, but the United Nations should assert greater control over the implementation of the rights concerned. In accordance with the decisions of the World Conference on Human Rights, a system of indicators should be established to evaluate the progress made in human rights and the Declaration and Programme of Action should be implemented by establishing United Nations monitoring units in countries which violated human rights and make them accountable to the international community.

STATEMENT BY THE DIRECTOR OF HUMAN RIGHTS OF THE COUNCIL OF EUROPE

80. Mr. IMBERT (Council of Europe) said that the Council intended to contribute to the commemoration of the fiftieth anniversary of the Universal Declaration, not only by supporting a number of events across Europe but also by holding a regional colloquium of its own at Strasbourg in September 1998.

81. Notwithstanding the advanced legal systems of protection of human rights within the framework of the Council, the human rights situation in Europe was still far from perfect. Various forms of social exclusion and inequality were

a major problem in many European countries and other dangerous trends, such as racism and other forms of intolerance, were on the increase. The European Court of Human Rights had found several breaches of article 3 of the European Convention on Human Rights, and unacceptable prison conditions had been described in several of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

82. The Council's activities to ensure better implementation of international standards were characterized by four main approaches, the first of which consisted in strengthening the international protection mechanisms, e.g., by offering greater access to protection mechanisms, making the control system more independent by shifting it away from political authorities and enhancing its judicial features, extending monitoring powers and granting sufficient resources to enable the system to cope with an ever-increasing workload. A single, permanent European Court of Human Rights was to start operation on 1 November 1998 and a protocol to the European Social Charter providing for a collective complaints system would shortly come into force.

83. The second approach consisted in developing new structures and methods for close monitoring of national situations, especially for preventive purposes. In that connection, he referred to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment which had become a major instrument for supervision and prevention, and to the European Commission against Racism and Intolerance, which monitored the situation in all the member States and endeavoured to assist them in combating those phenomena. The Council's political organs - the Parliamentary Assembly and the Committee of Ministers - had also set up their own systems to ensure that human rights commitments were duly honoured.

84. The third approach consisted in improving national situations by making international action more operational. In the new political situation prevailing in Europe since 1989, the Council was offering more practical help to member States through cooperation and assistance programmes designed to foster democratic stability in Europe. The purpose of all such programmes was to create a suitable infrastructure capable of preventing or remedying human rights violations at the national level. Lastly, the Council's standard-setting work included, in addition to the Framework Convention for the Protection of National Minorities, the incorporation of new safeguards in a revised version of the European Social Charter.

85. The importance of the work of NGOs and individuals working in the defence of human rights on a daily basis could not be overestimated. He hoped that a text aimed at protecting that vital role of civil society would be approved by the Commission at its current session. As for the idea of setting out the responsibilities of the individual in a declaration, he feared that such a project would be fraught with dangers. On the one hand, individual responsibilities were already defined very clearly in criminal codes and other forms of national legislation; on the other, there were responsibilities that could not be regulated by the State because they were a matter of the individual's conscience or ethics. The appropriate way to promote individual responsibility was through education and sensitization.

86. Lastly, with respect to the question of the death penalty, he pointed out that the 40 States members of the Council of Europe formed a large area which was free from the execution of the death penalty and in which that penalty was considered to breach the principles of human rights and the rule of law. He welcomed the Italian initiative on the issue, which deserved the support of all members of the Commission.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

(b) THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(agenda item 5) (E/CN.4/1998/10 and Add.1 and 2, 21, 22 - E/CN.6/1998/11, E/CN.4/1998/23-27 and 110; E/CN.4/1998/NGO/3, 4 and 25; E/CN.4/Sub.2/1997/8; A/52/511)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 6) (E/CN.4/1998/28 and 29; A/52/473)

87. Mr. SALINAS (Chile) said it was regrettable that the vast majority of people around the world still did not enjoy their economic, social and cultural rights, particularly in the less developed societies but also to a significant extent in developed countries. The international community should redouble its efforts to redress that situation. The right to development was also an inalienable human right. His Government gave priority to promoting it both nationally and internationally and had joined in all initiatives aimed at realizing the provisions of the Declaration on the Right to Development.

88. He paid tribute to the admirable visionary force of the drafters of the Universal Declaration of Human Rights and noted that the Declaration on the Right to Development was based thereon. There was a harmony and complementarity between the two declarations and it was therefore appropriate to consider various initiatives that came within the framework of the Declaration on the Right to Development but could also be interpreted as amendments to the Universal Declaration.

89. It was of the greatest importance that a mechanism to monitor progress on the right to development should be established. Chile therefore welcomed the recommendations to that effect by the Intergovernmental Group of Experts

on the Right to Development, a body which could itself make a significant contribution by avoiding duplication and assisting in the realization of the right to development.

90. Since the restoration of democracy, Chile had constantly sought to maintain a balance between respect for economic, social and cultural rights, on the one hand, and civil and political rights, on the other. That was the essence of democracy. The Chilean people understood that human rights were indivisible and that there should be a permanent harmony between the various kinds of rights and fundamental freedoms. Otherwise, the mandate given by the World Conference on Human Rights would be incomplete. There should also be a proper relationship between rights and the proper management of wealth and resources, both human and material.

91. Mr. Selebi (South Africa) resumed the Chair.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

92. The CHAIRMAN said that the current year provided a unique opportunity to reinforce the Commission's links with the Commission on the Status of Women and the Bureau therefore proposed that it should consider holding a special debate on gender and the human rights of women, on Monday 6 April 1998. The Bureau also proposed that speaking time at that meeting should be limited to five minutes for all speakers. Delegates were requested to continue consultations and inform their regional coordinators of their views before 27 March 1998 when a decision would be taken.

The meeting rose at 1 p.m.